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BRIBERY IN THE LEGISLATURES.

BY S. M. GARDENHIRE.

It is not often in this government of the people that such an object-lesson is furnished them as that enacted at Albany, New York, in the politics having headquarters there. One honorable Senator has accused an honorable colleague of having accepted a thousand dollars as a bribe direct for his official vote on a bridge proposition which was pending in the Legislature. The small sum named was not the total of the price alleged to have induced a betrayal of public trust, nor are we to regard it as a measure of the value of this kind of statesmanship; its significance is in the fact that it purports to be the specified amount in a rare and concrete case which opened itself up in this timely manner to publicity. The gross figures of which this thousand dollars was a part might well have influenced any number of honorable colleagues of this alleged more or less honorable stripe. The preliminary legislative inquiry following incited the query as to whether or not the case disclosed a practice or an incident. The question was characteristic in its hypocrisy. It made one think of Macaulay's reference to the British public in one of its periodical fits of morality. The newspapers throughout the country generally are scarcely in doubt. They have long admitted the prevalence of bribe-taking in Legislatures, and in this case they allege that the practice is winked at in the organization of both political parties. As to this, there is little doubt in even the general public mind, and in its own interest it can afford to be as frank as its press; the Albany case is a practice and not an incident. All men of affairs are familiar with the old legislative staggers who, on the convening of the Assemblies at the appointed time in the various States, rise from their familiar seats, one after the other in turn, to introduce House Bill number blank, re-

quiring the local railroads to establish standard scales at country cross-roads, put asphalt between the rails in desolate wastes, place stock-yards on costly terminal grounds, or imposing such other duties and expenditures as may uselessly harass and annoy. Such procedure is so much looked for on such occasions that the House staff greets the ancient routine with a humorous smile of welcome, and the bills are quietly referred to the various committees, where watchful lobbyists of the assaulted interests are prepared to meet them. Insurance companies have been similarly attacked, and officials of these two kinds of corporations, exclusive of many others, will bear unanimous testimony that they have met this character of procedure for years in practically every State in the Union.

As the country has grown into unprecedented commercialism all moral questions have amplified. But the harsh syllabic "bribery" has been tempered by the apologetic word "graft." One municipal politician whose area of influence might dignify him to statesmanship in the West, with a lack of humor which is a reflection on the race from which he sprang, has coined the phrase "honest graft" as descriptive of that character of dishonesty which the public will admit and yet tolerate. It is the irony of our helplessness that admits his definition.

The Albany case suggests a more extended investigation. But why seek to discover what we already know? If the additional certainty to be acquired is not to be followed by an effective remedy, why trouble the waters?

We have statutes already which make bribe-taking a felony. Every State by their enactment has confessed their necessity. Can they be made stronger? Can we make bribery more than a felony? The matter will bear emphasis because of its moral interest to the whole country. The representatives of the people come from the very essence of the community itself and are presumably selected citizens. Is it possible that we get a better class of persons from the same source when we draw on it for our judges, and must we believe that the courts are corrupt also? "To such complexion must we come at last," unless the remedy be found.

A reading of these bribery statutes, varied as they may be, will show that we have treated the situation with a severity that smacks of bravado when it is remembered who drafted and en-

acted them. They strain legislation to the utmost to reach a dangerous and detestable form of crime, and yet, with rumor and suspicion rife throughout the entire country, and so existing for a long period of time, the bribe-taker is the rarest defendant seen at the bar of justice.

The reason? We are not yet free. We have not yet thrown off the prejudices, the superstitions and the ancient thralls with which intelligent aspiration must continue to strive. Here the doctor makes diagnosis of his own case. Judges do *not* condemn themselves. Legislators do *not* make laws under which they can be convicted of practices in which they admittedly indulge. The old legislative stager who rises with his railroad or his insurance bill can be trusted not to initiate or further any measure in which his own conduct is likely to be entangled. And he is the wariest and wisest old veteran that ever administered such a situation. He is an expert on every moral question growing out of a relation between the public and its law, and the loudest and shrewdest sophist that ever spoke to such a subject. We have called him a demagogue, but he is more; he is a special pleader to inherent weakness in humanity itself, and therefore he seldom speaks in vain. He, the man we most desire to reach, past master in the premises that afflict us, is the one to whom we go for counsel, and to whom we guilelessly intrust all methods to prevent a procedure of which he is both the father and the mother.

Let us stop in the haste of too much progress and optimism and consider a matter about which we usually shrug our shoulders. Does there exist, then, truly in the conduct of this Government for which we profess such pride and which we have believed to be so superior to every form of monarchy, however liberal, this vulgar form of theft? And in the very citadel, too? Integrity is one of the elements of patriotism, yet we believe that a legislator who would take a bribe from a willing giver for a vote on a matter possibly not affecting his immediate constituency might stop short of robbing the treasury and would scorn to betray his country to a foreign enemy. The salvation of the question is in the fact that there *are* such men. We feel this, and hence we are patient with a situation which we believe to be beyond cure, except in a further development of the general conscience. Hundreds of officials would accept a bribe indirectly who would repulse an offer of money with indignation. To their minds, blandish-

ment or social preferment or indirect business advantage does not shape itself into such an act, or differ so greatly from the ordinary transactions of life, not official, as to make such an acceptance an offence. It is here that the old stager rises in defence of an inherent weakness to invert the laws of logic and interpose an effective barrier to progress. It is in this that the strongest statutes with the severest penalties are ineffective. In every State in the Union they all beg the question in the beginning. They offer by way of apology the old and comforting phrases, "The receiver is as bad as the thief," "The whiskey-seller is as bad as the whiskey-user," and the, "Tempter"—we have hated the "tempter" ever since he crept into the Garden of Eden. And he has retaliated in making that hatred and its accompanying fear the basis of as much injustice with its accompanying misery as humanity has been able to inflict on itself.

We make a statute declaring that the bribe-taker shall be punished as a felon; and smilingly the old legislative stager incorporates into the same rule the provision that the man who offers the bribe shall be also a felon and thereby wipes out the only available witness to the transaction. And he knows his moral public. "I am perfectly willing to be punished if I accept a bribe," says this veteran in logic, "and I ought to be. But you must punish equally that overpowering person to whom I am induced to yield."

In the annals of logic there was never a conclusion more insincere. The receiver is seldom as bad as the thief; the other old saws and ancient instances are likewise faulty and the tempter has a very small moral status in any such transaction. "'Tis in ourselves that we are thus and thus."

In the isolated instances where the tempter is a man of force, character and experience, and the person influenced a weak, timid and trustful nature, the instance excites a natural abhorrence. Where manhood preys on childhood in any form of sin or deceit, we are stirred to anger and revolt. But all such cases usually occur in another domain of our social relationship and are met by methods in which the social system is well schooled. Invariably society can care for them, and the analogy by way of illustration should not be tolerated in the mouth of any erring official.

Imagine a man proficient enough to obtain a public office in

these days of extended and complex political controversy mitigating his lapse from decency and honor by asserting a tempter! It is the criminal always who begs the question and those related to him in some manner of blood or interest who seek indulgence by pleading the primer in human weakness. In truth, a public officer is presumably not a person to be tempted. He is selected as a choice example of wisdom and experience, well worthy to be trusted. The kind of man who would seek to bribe him is a person who could not, in the logic of things, influence him at all; and wherever he yields it is the money and not its wielder who tempts him. The bribe-offerer in every such transaction is a minor moral factor with little logical relation to the act or its result.

The official is under obligation, assumed beforehand, not to betray his trust. This obligation takes the form of an oath which puts him on notice. But the bribe-giver is not anticipated or expected. The citizen is not presumed to be so foolish as to wish to corrupt his own servant, and it never should be suspected that an offer of a bribe would be accepted. And it never would be accepted if the criminal statute was made effective by putting the burden solely on the man who directly and solemnly assumes it and letting the bribe-giver be immune. Bribe-taking would instantly disappear in the face of such a statute, unless we impute a criminal stupidity to men worth official status. Immune himself and guilty of no offence in so doing, no man would dare approach an officer and ask him to become a criminal, alone, for any sum which might be tendered. The reply must be absolute in every instance:

“Why, you villain! Do you want to entrap me? If I accept this offer I become a criminal, while you are in no peril whatever. Nothing but your silence would stand between me and the penitentiary, and even though you should not betray me I must be your slave, always at your mercy, compelled to obey you hereafter without a payment, because you could always hold me subject to the telling of my first offence.”

Is it to be believed that any man of official age would ever assume such a condition? And how would he resent the effort of any one to induce him to assume such a condition?

It is easy to enforce the statutes against every character of admitted felony where witnesses who testify against the criminal

are regarded as good citizens and are encouraged to come forward; but if in a case of burglary the person robbed were placed in the same category as the criminal, no sane citizen would be willing to testify that his property had been invaded. He could better place the burglar in the quality of an invited guest and swear speedily that the goods taken went with his full consent.

The question presents difficulties only to those legislative veterans who are protectors of the public conscience, and one form of story which may take many forms illustrates his method of mitigating the veniality of the bribe.

"Here's a thousand dollars for your vote, Bill, on this railroad question," said a lobbyist to the member of a Western Legislature. "Can I count on you as against the measure?"

"You can," was the reply as the member pocketed the money, "but don't think this little gift has influenced me any. I'd made up my mind already to vote your way. I'm an honest legislator, while you are a lobbying bribe-giver, and I only took your money to prevent your tempting some weaker member of this body with it."

"All right," said the lobbyist; "but I shall not make this case a precedent."

"No, I wouldn't if I were you," answered the lawmaker. "Each case should rest on its own merits, and one *could* arise where I might not have made up my mind beforehand."

Civilization is attained by educational thought and consistent individual striving. This results in the abrogation of old prejudices and the making of new rules or laws up to which the consistent strive to live. If prejudice is thrown down and the bribe-taker is not protected by a statute of his own drafting, wherein he shall impose upon his alleged tempter a penalty as great as that which he is willing to risk himself, we may hope to abolish graft and progress a little further on the journey towards good Government.

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